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OFFICE OF PETITIONS

In re Patent No. 6,537,940 :
Issue Date: March 25, 2003 :
Application No. 09/636,157 : ON PETITION
Filed: August 10, 2000 :
Attorney Docket No. MSRI2034US1 :

This is a decision on the renewed petition under 37 CFR 1.377, filed August 15, 2011, to accept and record a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The above-identified patent issued on March 25, 2003. Accordingly, the second maintenance fee could have been paid from March 25, 2010 to September 27, 2010 or with a surcharge from September 28, 2010 to March 25, 2011.

Petitioner indicates that the maintenance fee, including the required surcharge, was timely paid.

A review of the record discloses that a maintenance fee was paid under 37 CFR 1.362(e) on April 1, 2011, using a certificate of mailing dated March 25, 2011. However, the payment failed to include the proper identification of the patent for which the payment was intended as required by 37 CFR 1.366. The maintenance fee for the identified patent had already been paid. As a consequence, the payment was not accepted. On April 6, 2011, a Notice of Non-Acceptance of Patent Maintenance Fee was mailed. On April 14, 2011 a petition under the provisions of 37 CFR 1.377 was filed; however, the petition was dismissed in a decision mailed June 13, 2011, since petitioner failed to resubmit the previously refunded maintenance fee and surcharge. On August 15, 2011, the present petition was filed, including the requisite maintenance and surcharge.

In submitting maintenance fees and any necessary surcharges, identification of the patents for which maintenance fees are being paid must include **the** patent number **and** an application number, see 37 CFR 1.366(c). Emphasis added.

Nevertheless, since the maintenance fee was accompanied by one of the mandatory identifiers pursuant to 37 CFR 1.366, the maintenance fee will be accepted for the above-identified patent as having been timely received. See MPEP 2580.

USPTO finance and maintenance fee records will be corrected to reflect the March 25, 2011 maintenance fee payment for this patent.

Since the requisite petition fee was included with the original petition, no further petition fee is required. Accordingly, the \$200 petition fee submitted with the present petition is being credited to counsel's credit card.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions